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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053509
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Cleveland State University,)	Cancellation No. 92053509
)	Reg. No. 3,735,435
Petitioner,)	Trademark: UNIVERSITY OF CLEVELAND
)	
v.)	
)	
CampusEAI Consortium,)	
)	
Registrant.)	

**PETITIONER'S COMBINED MOTION FOR LEAVE TO FILE AMENDED PETITION
TO CANCEL AND FOR SUMMARY JUDGMENT AND/OR SANCTIONS FOR
FAILURE TO COMPLY WITH A BOARD DISCOVERY ORDER**

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
I. INTRODUCTION.....	1
II. PROCEDURAL AND FACTUAL BACKGROUND.....	2
III. MATERIAL FACTS THAT ARE NOT IN DISPUTE	7
IV. LEGAL ANALYSIS	12
A. Leave to File an Amended Petition to Cancel is Proper.	12
B. Summary Judgment Granting the Petition to Cancel is Proper	14
C. The Undisputed Material Facts Show that Petitioner is Entitled to Judgment as a Matter of Law	15
1. Petitioner Has Standing to Cancel the Subject Registration	15
2. There is No Genuine Issue of Material Fact as to Abandonment of Registrant's Mark.....	16
D. The Board Should Sanction Registrant By Entering Judgment Against It.....	18
V. CONCLUSION	22
CERTIFICATE OF SERVICE.....	23

TABLE OF AUTHORITIES

CASES

<i>Celotex Corp. v. Catrett</i> , 477 U.S. 317 (1986).....	14
<i>Cerveceria Centroamericana S.A. v. Cerveceria India, Inc.</i> , 892 F.2d 1021, 13 USPQ2d 1307 (Fed. Cir. 1989).....	16, 17
<i>Dove v. Washington Metropolitan Area Transit Authority</i> , 221 F.R.D. 246 (D.D.C. 2004).....	13
<i>Foman v. Davis</i> , 371 U.S. 178 (1962).....	12, 13
<i>Imperial Tobacco Ltd. v. Phillip Morris, Inc.</i> , 899 F.2d 1575, 14 USPQ2d 1390 (Fed. Cir. 1990).....	16, 17
<i>Marshall Field & Co. v. Mrs. Fields Cookies</i> , 11 USPQ2d 1355 (TTAB 1989).....	13
<i>Media Online Inc. v. El Clasificado, Inc.</i> , 88 USPQ2d 1285 (TTAB 2008).....	13, 14
<i>Medtronic, Inc. v. Pacesetter Systems, Inc.</i> , 222 USPQ 80 (TTAB 1984)	19
<i>Milliken & Company v. Image Indus., Inc.</i> , 39 USPQ2d 1192 (TTAB 1996).....	15
<i>Nabisco Inc. v. Wm. Wrigley Jr. Co.</i> , 40 USPQ2d 1251 (TTAB 1995).....	15
<i>Rivard v. Linville</i> , 45 USPQ2d 1374 (Fed. Cir. 1998).....	16, 17
<i>Sweats Fashions, Inc. v. Pannill Knitting Co. Inc.</i> , 833 F.2d 1560, 4 USPQ2d 1793 (Fed. Cir. 1987).....	14

STATUTES

15 U.S.C. §1051	4
15 U.S.C. §1052(d).....	15
15 U.S.C. §1064(3).....	11
15 U.S.C. §1127	16, 17

RULES

37 C.F.R. §2.115	12
37 C.F.R. §2.120(e)(2).....	1
37 C.F.R. §2.120(g)	18, 20, 22
Fed. R. Civ. P. 15(a)(2).....	12
Fed. R. Civ. P. 56(c)	14

OTHER AUTHORITIES

TBMP §303.03.....	15
TBMP §405.04(b)	19
TBMP §507.01	13
TBMP §507.02(a)	13
TBMP §507.02(b)	13
TBMP §527.01	18, 20, 22
TBMP §527.01(e)	21
TBMP §528.01	14

I. INTRODUCTION

Petitioner, Cleveland State University ("Petitioner"), hereby moves the Trademark Trial and Appeal Board ("Board") for leave to file an Amended Petition to Cancel in this proceeding, a copy of which is attached as Exhibit A hereto, to include an additional ground for cancellation, *i.e.* abandonment, and to correct a typographical error. Petitioner further moves the Board for Summary Judgment and/or Sanctions For Failure to Comply With a Board Discovery Order by granting the Petition to Cancel. This combined motion is based on information recently obtained during fact discovery annexed to the Declaration of Diane M. Jacquinot ("Jacquinot Declaration") which is being filed concurrently herewith.

The factual information discovered reveals that Registrant, CampusEAI Consortium ("Registrant"), has abandoned¹ use of the mark of the subject application, UNIVERSITY OF CLEVELAND ("Registrant's Mark") in commerce on the services listed in Registration No. 3,735,435. As Petitioner is moving promptly to amend its pleadings upon learning of this new information, leave to amend should be granted. The grounds for this motion are more particularly set forth below.

Petitioner also respectfully requests that the Board suspend the proceedings pending its consideration of this combined motion and, if necessary, reset the trial dates upon lifting the suspension in accordance with 37 C.F.R. §2.120(e)(2) upon the Board's decision.

¹ For purposes of this motion, Petitioner presumes that Registrant validly used its UNIVERSITY OF CLEVELAND mark at the time the application to register, Serial No. 77/594,292, was filed. The Motion For Summary Judgment portion of this combined motion is limited to the issue of abandonment. Petitioner reserves its alternative allegations set forth in the Amended Petition to cancel that Registrant's Mark is likely to cause confusion with Petitioner's Marks under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d) and that Petitioner's Marks are famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §112(c), and will be diluted by the registration of Registrant's UNIVERSITY OF CLEVELAND Mark.

The grounds for this motion are more particularly set forth below.

II. PROCEDURAL AND FACTUAL BACKGROUND

The mark UNIVERSITY OF CLEVELAND, for which Registrant filed an application to register with the U.S. Patent and Trademark Office on October 16, 2005, was registered on the Supplemental Register on January 5, 2010. Petitioner filed a Petition to Cancel on January 13, 2011. The originally filed Petition to Cancel alleged a likelihood of confusion between Registrant's UNIVERSITY OF CLEVELAND mark ("Registrant's Mark") and Petitioner's marks CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design ("Petitioner's Marks") and dilution of Petitioner's Marks by Registrant's Mark. Paragraph 14 of the Petition to Cancel contains a typographical error referencing Registrant's Mark as CLEVELAND UNIVERSITY. An Answer was filed by Registrant on February 18, 2011.

On September 10, 2011, Petitioner sought discovery from Registrant and submitted to Registrant a First Set of Interrogatories ("Interrogatories") and a First Request for Production of Documents and Things ("Requests"). Registrant's responses to the discovery requests were initially due on or by October 15, 2011. Registrant responded to Petitioner's Requests For Admissions on October 10, 2011 [Jacquinot Decl., Exh. A]. Discovery closed on September 20, 2011.

On November 15, 2011, Petitioner filed a Motion to Compel Discovery. In ruling on Petitioner's Motion, the Board rendered a decision on January 11, 2012 wherein it ordered:

Respondent is allowed **thirty (30) days** from the mailing date of this order in which to serve upon petitioner full and complete answers to petitioner's Interrogatory Nos. 1-3 and 5-38, without objection (except for objections based upon privilege).

With regard to Interrogatory No. 4, petitioner's motion to compel is granted to the extent that respondent is compelled, within the same thirty days provided above, to state the date when registrant first began using the term UNIVERSITY OF CLEVELAND as a service mark in connection with education services, namely providing university level instruction and courses.

See Dkt. #7, p. 3; and

Respondent is also allowed **thirty (30) days** from the mailing date of this order in which to serve upon petitioner responsive documents to petitioner's Document Request Nos. 1-8, 10-29, 31-38, without objection (except for objections based upon privilege).

If there are no responsive, non-privileged documents in respondent's custody, possession or control which are responsive to any of the aforementioned document requests, respondent must so state in its response to the corresponding document request.

See Dkt. #7, p. 3.

On February 10, 2012, Registrant provided responses to the Interrogatories and responses to the Requests [Jacquinot Decl., Exhs. B and C].

Significantly, Petitioner's Interrogatory No. 5 requested identification of "all Services offered by Registrant under Registrant's Mark" to which Registrant replied "Certificate online and/or onsite programs for IT." The services specified in Registration No. 3,735,435 are: "educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology;"

Petitioner's Interrogatory No. 15 – requested identification for each Service identified in response to Interrogatory No. 5 "the geographic area (by city and/or state) in which such Services have been offered, provided, and/or sold" to which Registrant replied "India." See Jacquinot Decl., Exh. B. Although, Registrant denies that it is not using its Mark in its response to Requests for Admissions [Jacquinot Decl., Exh. A],

Registrant has admitted through response to the remainder of propounded discovery that it is not using its mark for “educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology” in “commerce which may lawfully be regulated by Congress” as required by Section 1 of the Trademark Act, 15 U.S.C. §1051.

Moreover, Petitioner’s Interrogatory No. 13 requested information on the total revenue derived from providing the services identified in response to Interrogatory No. 5. Registrant’s response was “0.” See Jacquinot Decl., Exh. B. Thus, Registrant has admitted that there have been no sales of services under Registrant’s Mark in commerce.

Registrant’s non-use of Registrant’s Mark is further supported by the Requests and Registrant’s responses thereto. Here, Petitioner requested documents from Registrant, including all documents or things referring to, relating to and/or concerning the services offered by Registrant under its UNIVERSITY OF CLEVELAND mark, including evidence of dates of first use for each such service, sales records, and documents relating to the federal registration of the mark. [Jacquinot Decl., Exh. C, Request Nos. 2, 3, 5, and 6]. Registrant’s responses to those requests, and all requests contained in Petitioner’s requests for documents for that matter, were “[t]here are no responsive documents.” Registrant has, therefore, provided no evidence of any actual use of Registrant’s Mark, notwithstanding a Board Order compelling Registrant to produce such discovery.

Petitioner notes that Registrant’s responses to Requests for Admissions are diametrically opposed to Registrant’s responses to Interrogatories and Requests. For

example, in response to Petitioner's Requests for Admission Nos. 16 and 17, Registrant responded "Deny."² See Jacquinot Decl., Exh. A. The responses to Petitioner's Requests for Admissions indicate that the mark has been and is being used although Registrant's answers to the Interrogatories and Requests state and show the opposite.³

In the Order, the Board also stated: "Additionally, respondent must provide verification of the responses ordered above." [Dkt. #7, p. 3]. Despite, a request from counsel for Petitioner, [Jacquinot Decl., Exh. D - F], Registrant did not provide a verification of the responses, but simply provided an electronic signature by Registrant's in-house counsel.

Finally, in the Order, the Board noted "[s]hould respondent fail to serve on petitioner the discovery responses as ordered herein, as well as a privilege log, if applicable, the Board will entertain a motion for sanctions in the form of entry of judgment sustaining the petition to cancel" [Dkt. #7, p. 4]. Registrant has failed to comply with the Order by providing improper responses and exhibiting uncooperative behavior.

² **REQUEST NO. 16**

Admit that Registrant does not offer Services in conjunction with the mark UNIVERSITY OF CLEVELAND.

REQUEST NO. 17

Admit that Registrant does not use the phrase UNIVERSITY OF CLEVELAND as a service mark.

³ Further Petitioner provides inconsistent answers within the Requests for Admissions themselves, *e.g.* Registrant admitted Request No. 11 (Admit that the Services identified in Registration Nos. 3,735,435, 3,671,697, and 3,694,718 travel in the same channels of trade) and denied Request No. 18 (Admit that the services listed in Registration Nos. 3,735,435, 3,671,697, and 3,694,718 would conceivably be offered to the same consumers).

The Definitions provided in Petitioner's Interrogatories state:

The term "Registrant" or "CampusEAI" or "you" as used in these definitions, interrogatories and any request for the production of documents and tangible things shall include the Registrant, CampusEAI, as well as its subsidiaries, affiliates, divisions, corporate predecessors, and any other legal entities that are wholly or partly owned or controlled, or are controlled by Registrant, either directly or indirectly, and all present and future directors, owners, officers, employees, counsel (including, but not limited to all house and outside counsel), agents, consultants, experts, representatives and all other persons acting, or purporting to act on behalf of Registrant, its subsidiaries, affiliates, divisions, predecessors and any other legal entities that are wholly or partly owned or controlled by Registrant.

Petitioner's Interrogatory No. 1 requested the identification of each officer and director of the Registrant and a description of his and/or her respective responsibilities or duties. The response provided identified Arun Kumar (who is identified in the response to Interrogatory 2 as Arun Chopra) as CFO with the responsibility for the strategic mission and offerings of the registrant [Jacquinot Decl., Exh. G]. Yet, the interrogatories were signed, without verification, by Michael C. DeJohn who is known to be the Registrant's Director of Corporate Development & General Counsel [Jacquinot Decl., Exhs. G – H] and Registrant's own website lists the name of the Chief Financial Officer as Arun Kumar Chopra [Jacquinot Decl., Exh. G] as well as three other officers and/or directors. Registrant clearly did not provide a complete answer to Interrogatory No. 1.

Mr. DeJohn is a graduate of Cleveland Marshall School of Law of Cleveland State University [Jacquinot Decl., Exh. H]. As a Director of Registrant, his knowledge is considered to impute to Registrant. One must question, then, in light of Mr. DeJohn's position and the Definition of Registrant contained in the Interrogatories, how the response to Interrogatory No. 29 (a) and (c), which reads:

State with particularity the date(s) when, and circumstances under which, Registrant first became aware of: ...

a. the Petitioner;

...

c. the existence of Petitioner's use, promotion, marketing, or advertisement of Petitioner's Marks.

The answer to each section (a, b, c) shall include the date such knowledge was obtained, the person(s) who obtained such knowledge, how such knowledge was obtained, the exact nature of the knowledge obtained, and identify all documents that relate to such knowledge.

[Jacquinot Decl., Exh. B] could possibly be:

a. Registrant is a corporation and thus cannot provide a date

...

c. When the instant proceeding was filed.

[Jacquinot Decl., Exh. B].

In view of the incomplete and contradictory responses to interrogatories and failure to produce even one responsive document, Registrant has shown a complete disregard for the Board, its Order and this proceeding. Registrant's responses are at a minimum uncooperative and disingenuous. In any event the Board should take Registrant at its word and cancel Registrant's Registration for abandonment.

III. MATERIAL FACTS THAT ARE NOT IN DISPUTE

With particular respect to the merits of the Motion for Leave to Amend and the Motion for Summary Judgment and/or Sanctions, the following facts are not in dispute:

1. Registration No. 3,735,435 at issue here is based on use in commerce of at least as early as September 20, 2005. See Registration Certificate No. 3,735,435, ("Registrant's Registration").

2. Registrant's Registration recites use of the Registrant's Mark with educational services, namely, providing seminars, workshops, classes, and lecture in the fields of

postsecondary and higher education in the field of information technology, having an express statement of use in commerce at least as early as September 20, 2005.

3. Registrant does not sell the services identified in Registrant's Registration bearing Registrant's Mark in commerce, as evidenced by Registrant's following response to the Interrogatories:

INTERROGATORY NO. 5:

Please identify all Services offered by Registrant under Registrant's Mark.

RESPONSE:

Certificate online and/or onsite programs for IT.

[Jacquinot Decl., Exh. B].

4. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Interrogatories:

INTERROGATORY NO. 15:

For each of the Services identified in response to Interrogatory No. 5, please identify the geographic area (by city and/or state) in which such Services have been offered, provided, and/or sold.

RESPONSE:

India

[Jacquinot Decl., Exh. B].

5. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 2:

All documents, things and ESI related to the marketing, advertising, offer of sale, use, and/or promotion of the Services, Goods, or Products under Registrant's Mark by or on behalf of Registrant.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

6. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 3:

Representative samples of advertisements, promotional materials, packaging, labeling or other materials or documents, things and ESI bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

7. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 5:

Representative invoices for sales of each Product, Good or Service for each year Registrant's Mark has been used in connection therewith

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

8. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 8:

Copies of all documents that bear Registrant's Mark which are viewed by customers or prospective customers of Registrant.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

9. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 12:

All documents related to the use of Registrant's Mark in association with Registrant's Services, Goods, or Products.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

10. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 13:

All documents that report on, describe, refer to, and/or relate to Registrant's use of Registrant's Mark.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

11. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 16:

All documents which Registrant will rely upon to establish that Registrant's Mark is currently being used in the United States, including any and all documents showing the Products, Goods, or Services for which the Registrant's Mark is being used by or on behalf of the Registrant.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

12. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 18:

All documents that describe, discuss, state, refer to, and/or relate to actual or intended channels of distribution and/or trade for Registrant's Products or Services bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

13. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 19:

All documents showing Registrant's annual advertising, marketing, and promotional expenses for each Product, Good, or Service related to Registrant's Mark for each year from the date of first use to the present date.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

14. Registrant does not sell any services in commerce bearing Registrant's Mark as evidenced by Registrant's following response to the Requests:

DOCUMENT REQUEST NO. 20:

Representative samples of advertising, marketing, or promotional materials bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

15. Registrant did not provide verification of the responses to the Interrogatories as required by the Order and further requested by Petitioner [Jacquinot Decl., Exh.D - F].

16. Registrant did not comply with the Order inasmuch as it failed to fully respond to the propounded interrogatories.

17. Registrant did not comply with the Order inasmuch as it failed to provide responsive documents to support its interrogatory responses.

18. Petitioner seeks cancellation of Registrant's Registration for the mark UNIVERSITY OF CLEVELAND in part on the grounds that the Registrant's Mark has been abandoned under Section 14(3) of The Lanham Act, 15 U.S.C. §1064(3). See Amended Petition, ¶¶ 23 - 25.

As discussed below, Petitioner should be granted leave to file the Amended Petition to Cancel attached as Exhibit A. Additionally, in the interest of judicial economy and to avoid the wasted expenditure of further resources in this case, Summary Judgment and/or Sanctions in the form of entry of judgment sustaining the Petition to Cancel under Trademark Rule 2.120(g)(1) should be granted.

IV. LEGAL ANALYSIS

A. *Leave to File an Amended Petition to Cancel is Proper.*

Under Section 2.115 of the Trademark Rules of Practice, pleadings in a cancellation proceeding may generally be amended in the same manner and to the same extent as in a civil action in the federal courts. 37 C.F.R. §2.115. The Federal Rules of Civil Procedure provide that a “court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). Furthermore, the U.S. Supreme Court has ruled that “this mandate [to freely amend] is to be heeded.” *Foman v. Davis*, 371 U.S. 178,182 (1962). As the Court has explained, a liberal pleading standard promotes the interests of resolving cases on the merits. *Id.* at 182 (“if the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits.”).

Here, Petitioner learned of the facts supporting the additional count in the Amended Petition to Cancel on or about **February 10, 2012**, a little over a week ago. Therefore, there has been no delay on the part of Petitioner in bringing this motion and no prejudice will result if the Court grants leave to amend the Petition.

A motion to amend should only be denied if the nonmoving party can demonstrate: “[1] undue delay, bad-faith or dilatory motive on the part of the movement ... [or] [2] undue prejudice to the opposing party by virtue of allowance of the

amendment...” *Foman*, 371 U.S. at 182. See also *Dove v. Washington Metropolitan Area Transit Authority*, 221 F.R.D. 246, 247 (D.D.C. 2004); TBMP §507.01.

The timing of a motion for leave to amend “plays a large role” in determining whether leave will be granted. TBMP §507.02(a). Specifically, the Board has explained that “[a] long and unexplained delay” in filing a motion may render an amendment untimely. Measuring “delay” from the start of the proceedings, however, only applies “where there is no question of newly discovered evidence.” See *Id.* Otherwise, a motion for leave to amend need only be filed once the open ground for such amendment, *e.g.*, newly discovered evidence, becomes apparent.” *Media Online Inc. v. El Clasificado, Inc.*, 88 USPQ2d 1285, 1286 (TTAB 2008).

As discussed above, Petitioner, prior to receiving Registrant’s responses to the Interrogatories and Requests, had no knowledge that Registrant would claim that it had used the UNIVERSITY OF CLEVELAND mark in association with “certificate online and/or on-site programs for IT” in India. Rather Registrant, by virtue of its verification of the veracity of the statements contained therein, claimed in the application that the Mark was used in commerce in association with “educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology” (which claims have since been shown to be false). Moreover, abandonment is not the type of defect that is readily apparent from the face of the registration. Thus, petitioner’s obligation when asserting abandonment as a basis for cancellation is to make the claim “promptly after the grounds ... are learned.” TBMP §507.02(b); *Marshall Field & Co. v. Mrs. Fields Cookies*, 11 USPQ2d 1355, 1359 (TTAB 1989) (explaining that “if after review of the

discovery..., defendant can allege that [the registrant/opposer] did not use the [mark]... as a service mark, defendant may file a motion to amend its answer to plead lack of use as a service mark as an additional ground for cancellation”).

Because Petitioner is moving promptly after learning of this new evidence, leave to amend should be therefore granted. *See, e.g., Media Online*, 88 USPQ2d at 1286.

B. Summary Judgment Granting the Petition to Cancel is Proper

Summary judgment is appropriate where the moving party establishes that there are no genuine issues of material fact which require resolution at trial, and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). More specifically, Rule 56(c) provides that the judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits, show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. *See also*, TBMP §528.01; *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-323 (1986); *Sweats Fashions, Inc. v. Pannill Knitting Co. Inc.*, 833 F.2d 1560, 4 USPQ2d 1793, 1796 (Fed. Cir. 1987).

There is no genuine issue of material fact that Registrant has discontinued use – if not completely failed to commence use – of the Registered Mark in the United States. Petitioner relies on the Interrogatories and Requests and Registrant's responses thereto, to demonstrate that Registrant has not used the UNIVERSITY OF CLEVELAND mark in commerce in association with the services listed in the Registrant's Registration. In fact, the responses to Interrogatories and lack of documentary evidence provided by Registrant establish that Registrant's Mark is not used in commerce in association with the services listed in Registrant's Registration or any other services for that matter.

When appropriate, the Board does not hesitate to dispose of cases on summary judgment. *Milliken & Company v. Image Indus., Inc.*, 39 USPQ2d 1192, 1196 (TTAB 1996). As shown here, summary judgment is appropriate in this proceeding, where the discovery responses establish that no reasonable finder of fact could find use in commerce of Registrant's Mark in association with the services listed in Registrant's Registration.

C. *The Undisputed Material Facts Show that Petitioner is Entitled to Judgment as a Matter of Law*

To prevail on its Amended Petition to Cancel, Petitioner must prove two things: (1) that it has standing to seek cancellation and that it is likely to be damaged by Registrant's Registration; and (2) that no genuine issue of material fact exists as to whether Registrant's Mark has been abandoned. *See Nabisco Inc. v. Wm. Wrigley Jr. Co.*, 40 USPQ2d 1251 (TTAB 1995).

1. *Petitioner Has Standing to Cancel the Subject Registration*

To establish standing, petitioner need only have (1) a "real interest" in the proceedings; and (2) a reasonable basis for the belief of damages. TBMP §303.03. Petitioner has valid grounds for seeking cancellation of Registrant's Registration and that Registrant's Mark, UNIVERSITY OF CLEVELAND, because it so resembles Petitioner's previously used and registered marks CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design shown in its registrations [Jacquinot Decl., Exhs. I –J], as alleged as alternative grounds for cancellation in Petitioner's Amended Petition, as to be likely, when used for related (if not identical) services, "to cause confusion, or to cause mistake, or to deceive". 15 U.S.C. §1052(d).

2. There is No Genuine Issue of Material Fact as to Abandonment of Registrant's Mark

To prevail on summary judgment, Petitioner must show that there is no genuine issue of material fact as to abandonment. See, *Rivard v. Linville*, 45 USPQ2d 1374 (Fed. Cir. 1998). As shown below, there is no evidence of Registrant's commercial use of Registrant's Mark in the United States. Registrant clearly states that its services are "offered, provided and/or sold" in India. [Jacquinot Decl., Exh. B] . Although Registrant denied that it had abandoned use of its Mark in its response to Petitioner's Request for Admissions (Jacquinot Decl., Exh. A), this self-serving profession flies in the face of the utter absence of supporting evidence of use. A denial in any pleading "is patently insufficient to preclude summary judgment on the ground the facts are disputed." *Imperial Tobacco Ltd. v. Phillip Morris, Inc.*, 899 F.2d 1575, 1581, 14 USPQ2d 1390, 1394 (Fed. Cir. 1990). Accordingly, there can be no question that Registrant's Registration should be canceled as abandoned.

While the ultimate burden of persuasion lies with the petitioner to prove abandonment by a preponderance of evidence, a petitioner establishes its *prima facie* case and a rebuttable presumption of abandonment upon a showing of non-use for a period of three consecutive years. 15 U.S.C. §1127; *Cerveceria Centroamericana S.A. v. Cerveceria India, Inc.*, 892 F.2d 1021, 13 USPQ2d 1307 (Fed. Cir. 1989). This presumption "'eliminates the [Petitioner's] burden to establish the intent element of abandonment as an initial part of [his] case,' and creates a rebuttable presumption that the registrant abandoned the Mark without intent to resume or commence use under the statute." *Rivard*, 45 USPQ2d at 1376 (*quoting Cerveceria Centroamericana*, 892 F.2d at 1026, 13 USPQ2d at 1312).

There is no evidence in the instant case of Registrant's use of Registrant's Mark in the United States during the previous three consecutive years, and there's some question as to whether Registrant ever made sufficient commercial use of Registrant's Mark in commerce to support Registrant's Registration. Under the Lanham Act, "use" of a mark in commerce "means a bona fide use of that mark made in the ordinary course of trade, and not made merely to reserve a right and a mark." 15 U.S.C. §1127. "[A] mark shall be deemed to be in use in commerce" when (A) the mark is placed on the goods, their packaging, or associated displays and (B) the goods are sold or transported in commerce. *Id.* The term "use" means use within the United States. See *Cerveceria Centroamericana*, 892 F.2d at 1024-25, 13 USPQ2d 1307 at 1309-10.

Registrant cannot show use of Registrant's Mark sufficient to overcome entry of summary judgment. Registrant has not sold or provided to the general public any services bearing Registrant's Mark. Respondent failed to produce a single document, advertisement, bill of sale, product sample, or any other item bearing Registrant's Mark. See Jacquinot Decl., Exh. C, Reqs. 2, 3, 5, 8, 12, 13, 16, 18, 19, and 20.

Registrant claims in its response to Petitioner's Requests for Admissions that it is using its Mark. However Registrant's self-serving proclamation of use of Registrant's Mark in the United States is entitled to little, if any weight. See *Rivard*, 45 USPQ2d at 1376. "In every contested abandonment case, the respondent denies an intention to abandon its mark; otherwise there would be no contest." *Imperial Tobacco*, 899 F.2d at 1851, 14 USPQ2d at 1394. A denial in any pleading "is patently insufficient to preclude summary judgment on the ground the facts are disputed." *Id.* If Registrant has "used" its Mark, such use cannot be deemed "use in commerce" in the United States as

defined by the Lanham Act. Registrant has not established any commercial use of Registrant's Mark in the United States sufficient to raise a viable defense and create a genuine issue of material fact to preclude summary judgment. Registrant's Mark has been abandoned as a matter of undisputed law and fact and Registrant's Registration should be canceled.

D. *The Board Should Sanction Registrant By Entering Judgment Against It.*

Under 37 C.F.R. §2.120(g) and TBMP §527.01, the Board has the authority to enter judgment against party to a Board proceeding for failure to comply with a Board discovery order. 37 C.F.R. §2.120(g) provides that:

If a party fails to comply with an order of the Trademark Trial and Appeal Board relating to discovery, including a protective order, the Board may make any appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, except that the Board will not hold any person in contempt or award any expenses to any party. The Board may impose against the party any of the sanctions provided by this subsection in the event that any said party or any attorney, agent, or designated witness of that party fails to comply with a protective order made pursuant to Rule 26(c) of the Federal Rules of Civil Procedure.

TBMP §527.01 further provides the types of sanctions that may be entered::

The sanctions that may be entered by the Board include, *inter alia*, striking all or part of the pleadings of the disobedient party; refusing to allow the disobedient party to support or oppose designated claims or defenses; prohibiting the disobedient party from introducing designated matters in evidence; and entering judgment against the disobedient party. Default judgment is a harsh remedy, but may be justified where no less drastic remedy would be effective and there is a strong showing of willful evasion.

In the January 11, 2012 Order the Board stated: "[s]hould respondent fail to serve on petitioner the discovery responses as ordered herein, as well as a privilege log, if applicable, the Board will entertain a motion for sanctions in the form of entry of judgment sustaining the petition to cancel" [Dkt. #7, p. 4]. Registrant has failed to

comply with the Order by providing improper responses and exhibiting uncooperative behavior.

Registrant has demonstrated precisely the type of willful evasion that supports entry of judgment as a discovery sanction. Registrant's failure to comply with the Order flouts the Board's authority to administer its docket. Registrant's refusal to comply with the Order strongly indicates that a less drastic remedy will not be effective. The fact that Registrant did not "serve upon petitioner full and complete answers to petitioner's Interrogatory Nos. 1-3 and 5-38, without objection (except for objections based upon privilege)" nor "serve upon petitioner responsive documents to petitioner's Document Request Nos. 1-8, 10-29, 31-38, without objection (except for objections based upon privilege)" [Dkt. #7, pp. 3 -4] indicates that Registrant is evading its discovery obligations and its obligations to comply with the Order.

Moreover, Registrant's responses to the Interrogatories fail to comply with the Order and TBMP §405.04(b) ("the answers must be made separately and fully, in writing under oath"). Registrant's responses are not fully responsive, and are not made under oath, even though the Order contains a specific requirement to provide verification of the response ordered.

The Board in *Medtronic, Inc. v. Pacesetter Systems, Inc.*, 222 USPQ 80 (TTAB 1984) stated that "parties [are] expected to endeavor to cooperate with each other in the discovery process. In this connection, each party and its attorney has a duty ... to make a good faith effort to satisfy the discovery needs of its opponent." Registrant has clearly not made this effort. Registrant's Responses to the Interrogatories are one word answers and incomplete. The responses to the Requests are all the same – "There are

no responsive documents.” A simple examination of the Requests indicates that the persons preparing the responses were being obstreperous. Clearly, Registrant does not take this proceeding seriously. For example the following response is simply false given the fact that Registrant has a federal registration for its Mark:

DOCUMENT REQUEST NO. 6:

All documents relating to the prosecution of any state or federal applications for registration of any trademarks, service marks, or trade names containing Registrant’s Mark.

RESPONSE:

There are no responsive documents.

[Jacquinot Decl., Exh. C].

Registrant’s General Counsel attended Cleveland State University’s law school and paid tuition for Petitioner’s services. It is inconceivable that he could sign his name to the response to Interrogatories containing this response:

INTERROGATORY NO. 29:

State with particularity the date(s) when, and circumstances under which, Registrant first became aware of: ...

a. the Petitioner;

...

c. the existence of Petitioner’s use, promotion, marketing, or advertisement of Petitioner’s Marks.

The answer to each section (a, b, c) shall include the date such knowledge was obtained, the person(s) who obtained such knowledge, how such knowledge was obtained, the exact nature of the knowledge obtained, and identify all documents that relate to such knowledge.

RESPONSE:

a. Registrant is a corporation and thus cannot provide a date

...

c. When the instant proceeding was filed

[Jacquinot Decl., Exh. B].

Accordingly, the Board should sanction Registrant by entering a judgment in Petitioner’s favor, all pursuant to 37 C.F.R. §2.120(g) and TBMP §527.01.

Alternatively, the Board should bar Registrant from later introducing evidence in response to this combined motion showing that it has used or intends to resume use of Registrant's Mark in connection with the services identified in Registrant's Registration. See TBMP §527.01(e) (estoppel sanctions).

V. CONCLUSION

For all of the foregoing reasons, Petitioner, Cleveland State University, respectfully requests that:

- (a) it be granted leave to file the attached *Amended Petition to Cancel* so that Petitioner may assert abandonment as an alternative ground for cancellation of Registrant's Mark; and
- (b) the motion for summary judgment be granted in its favor and United States Registration No. 3,735,435 for the mark UNIVERSITY OF CLEVELAND be cancelled; and/or
- (c) Registrant be sanctioned by entering judgment in Petitioner's favor, or, alternatively, be estopped from introducing any evidence that it has used, or intends to resume use of, Registrant's Mark in connection with the services identified in Registrant's Registration all pursuant to 37 C.F.R. §2.120(g) and TBMP §527.01.

Respectfully submitted,
Cleveland State University

Date: February 21, 2012

By: /s/Colleen Flynn Goss
Colleen Flynn Goss, Esq.
Jude A. Fry, Esq.
Fay Sharpe LLP
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115
(216) 363-9000
cfgoss@faysharpe.com
jfry@faysharpe.com
uspto@faysharpe.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2012, the foregoing Petitioner's Combined Motion for Leave to File Amended Petition to Cancel and for Summary Judgment and/or Sanctions for Failure to Comply with a Board Discovery Order was served via email, with consent, on Michael C. DeJohn, counsel for Registrant at Michael_dejohn@campuseai.org.

Michael C. DeJohn, Esq.
1111 Superior Avenue, Suite 310
Cleveland, Ohio 44114

/s/ Colleen Flynn Goss
Colleen Flynn Goss, Esq.
Attorney for Petitioner

**PETITIONER'S COMBINED MOTION FOR LEAVE TO FILE AMENDED PETITION
TO CANCEL AND FOR SUMMARY JUDGMENT AND/OR SANCTIONS FOR
FAILURE TO COMPLY WITH A BOARD DISCOVERY ORDER**

Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,735,435
For the Mark: UNIVERSITY OF CLEVELAND
Registered: January 5, 2010

Petitioner's Reference No.: CLEV 700118US01

Cleveland State University)	
)	
Petitioner)	
v.)	Cancellation No. 92053509
)	
CampusEAI Consortium)	
)	
Registrant)	
)	

AMENDED PETITION TO CANCEL

Attn: TTAB
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Cleveland State University, ("Petitioner"), a state university of Ohio, with a business address at 2300 Euclid Avenue, AC 231, Cleveland, Ohio 44115, believes that it will be damaged by continuous registration of the mark UNIVERSITY OF CLEVELAND, Reg. No. 3,735,435, registered in association with "educational services, namely providing seminars, workshops, classes, and lectures in the fields of postsecondary and higher education in the field of information technology" in Class 41 and hereby petitions to cancel said registration.

As grounds for this Petition, Petitioner alleges:

THE PARTIES

1. Petitioner, Cleveland State University, is a state university of Ohio, with a business address at 2300 Euclid Avenue, AC 231, Cleveland, Ohio 44115.
2. On information and belief, Registrant, CampusEAI Consortium is an Ohio corporation, having a business address at 1940 East 6th Street, 11th Floor, Cleveland, Ohio 44114.

PETITIONER AND ITS TRADEMARK

3. Petitioner, for many years, and since long prior to any date of first use upon which Registrant can rely, has adopted, used and is using the trademarks CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design in connection with, among other things, educational services at the undergraduate and graduate level as well as educational research. This use has been continuous and uninterrupted up to and including the present time.

4. Petitioner is the owner of United States Principal Trademark Registration No. 3,671,697 ("697 Registration"), issued August 25, 2009 for the trademark CLEVELAND STATE UNIVERSITY for lending libraries; publication of books; publication of electronic books and journals on-line; educational services, namely, providing courses at the undergraduate and graduate university level and distributing course material therewith; extension, continuing and community educational services, namely, conducting classes, public lectures, workshops, seminars, conferences and exhibitions in the fields of engineering, law, business, arts and humanities, natural and physical sciences, architecture, journalism, education, international and public affairs, public health, social work, behavioral sciences, and mathematics and distributing course material therewith; educational research; entertainment services, namely, arranging and conducting athletic events and tournaments, exhibitions, conferences, live performances and festivals. This registration is valid, subsisting, unrevoked and uncanceled. Copies of a TARR report and Assignment report in accordance with Rule 2.122(d)(1) are attached as Exhibit A.

5. Petitioner is the owner of United States Principal Trademark Registration No. 3,694,718 ("718 Registration"), for the trademark CLEVELAND STATE UNIVERSITY 1964 w/Design for lending libraries; publication of books; publication of electronic books and journals on-line; educational services, namely, providing courses at the undergraduate and graduate university level and distributing course material therewith; extension, continuing and community educational services, namely, conducting classes, public lectures, workshops, seminars, conferences and exhibitions in the fields of engineering, law, business, arts and humanities, natural and physical sciences, architecture, journalism, education, international and public affairs, public

health, social work, behavioral sciences, and mathematics and distributing course material therewith; educational research; entertainment services, namely, arranging and conducting athletic events and tournaments, exhibitions, conferences, live performances and festivals. This registration is valid, subsisting, unrevoked, and uncanceled. Copies of a TARR report and Assignment report in accordance with Rule 2.122(d)(1) are attached as Exhibit B.

6. Petitioner has continuously used its distinctive CLEVELAND STATE UNIVERSITY trademark in connection with the services covered by the '697 Registration since at least as early as 1964.

7. Petitioner has continuously used its distinctive CLEVELAND STATE UNIVERSITY 1964 w/Design trademark in connection with the services covered by the '718 registration since at least as early as 1965.

8. Petitioner has extensively and prominently advertised and promoted its CLEVELAND STATE UNIVERSITY formative trademarks and the goods and services provided under the marks throughout the United States and especially in Northeast Ohio. Petitioner has developed substantial and exclusive goodwill and reputation in connection with the term CLEVELAND STATE UNIVERSITY and the goods and services with which the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design marks are used.

9. Petitioner's services under the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks have received unsolicited national, regional, and local media attention.

10. As a result of these efforts, combined with providing quality education services to hundreds of thousands of students under the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks, the relevant consuming public has come to recognize CLEVELAND STATE UNIVERSITY as distinguishing Petitioner's services from those of others and the mark has become well-known and famous.

11. Petitioner has acquired significant and exclusive trademark rights and interest in and to the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks both under its federal registrations for such

trademarks as well as at common law for rights in and to such marks in association with educational services at the undergraduate and graduate level, as well as educational research.

REGISTRANT'S TRADEMARK REGISTRATION

12. On October 16, 2008, Registrant applied to register the mark UNIVERSITY OF CLEVELAND for educational services, namely, providing university level courses and instruction, and educational research in Class 41. This application was assigned Serial No. 77/594,292 and was based on Applicant's asserted use of the mark in commerce.

13. On April 1, 2009, Registrant amended its application to register the mark UNIVERSITY OF CLEVELAND to seek registration on the Supplemental Register.

14. On January 5, 2010, Registration 3,735,435 issued as a U.S. Trademark Registration on the Supplemental Register for the mark UNIVERSITY OF CLEVELAND with the word UNIVERSITY disclaimed in association with "educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology" in Class 41.

COUNT ONE: LIKELIHOOD OF CONFUSION SECTION 2(d) OF THE LANHAM ACT, 15 U.S.C. §1052(d)

15. On information and belief, the services identified by Registrant's UNIVERSITY OF CLEVELAND mark are virtually identical to Petitioner's services.

16. Petitioner's use, filing and registration of the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks is long before Applicant's filing date or any date of first use on which Applicant can rely.

17. Registrant's mark, UNIVERSITY OF CLEVELAND, which is the subject of Registration No. 3,735,435, so resembles Petitioner's previously used and registered marks as to be likely, when applied to the services set forth in Petitioner's registrations, to cause confusion, mistake or deception for purposes of Section 2(d) of the Trademark Act.

18. Petitioner will be damaged by registration of the designation UNIVERSITY OF CLEVELAND in association with Registrant's services in that, consumers are likely to believe that Registrant's services originate with or are sponsored by Petitioner and any inadequacies in Registrant's services are likely to be attributed to Petitioner, all of which will cause injury to Petitioner.

COUNT TWO:
TRADEMARK DILUTION
SECTION 43(c) OF THE LANHAM ACT, 15 U.S.C. §1125(c)

19. Petitioner's CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks have become famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

20. Petitioner's CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks will be diluted by the registration of Applicant's CLEVELAND UNIVERSITY mark.

21. For the reasons noted above, Petitioner would be damaged by registration of the UNIVERSITY OF CLEVELAND registration.

COUNT THREE:
ABANDONMENT

22. Upon information and belief, Registrant has never used the UNIVERSITY OF CLEVELAND mark in commerce in the United States after receiving Registration No. 3,735,435 and, in any event, has abandoned the registered mark by virtue of failing to offer educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology under the mark in commerce in the United States. Upon information and belief, Registrant has no intention to resume use thereof.

23. From September 20, 2005 to the date of this Amended Petition to Cancel, there was at least one period of more than three years during which Registrant did not make *bona fide* use of Registrant's UNIVERSITY OF CLEVELAND mark in United States commerce in association with educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in

the field of information technology and during which Registrant did not intend to use or begin use of Registrant's mark in United States commerce.

24. For the foregoing reasons, Registrant abandoned its mark UNIVERSITY OF CLEVELAND.

25. Registration No. 3,735,435 should therefore be cancelled because the mark UNIVERSITY OF CLEVELAND has been abandoned.

WHEREFORE, Petitioner respectfully requests that this petition be sustained and that registration be cancelled.

The required \$300.00 cancellation fee was previously made to cover the required filing fee.

Respectfully Submitted,

FAY SHARPE LLP

Dated: February 21, 2012

/s/Colleen Flynn Goss

Colleen Flynn Goss, Esq.

Jude A. Fry, Esq.

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Attorneys for Petitioner,
Cleveland State University

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____)	
Cleveland State University,)	Cancellation No. 92053509
)	Reg. No. 3,735,435
Petitioner,)	Trademark: UNIVERSITY OF CLEVELAND
v.)	
)	
CampusEAI Consortium,)	
)	
Registrant.)	
_____)	

DECLARATION OF DIANE M. JACQUINOT

I, Diane M. Jacquinot., declare and state as follows:

1. I am a paralegal with the firm of Fay Sharpe LLP, attorneys for Petitioner, Cleveland State University and, as such, I am fully familiar with the facts and circumstances of this matter.
2. I make this Declaration to authenticate materials that will be used in Petitioner's Combined Motion for Leave to File Amended Petition to Cancel and for Summary Judgment and/or Sanctions for Failure to Comply with a Board Discovery Order.
3. Attached to this Declaration as Exhibit A is Registrant's Response to Petitioner's First Set of Requests for Admission which was served upon Petitioner October 10, 2011.
4. Attached to this Declaration as Exhibit B is Registrant's Response to Petitioner's First Set of Interrogatories to Registrant which was served upon Petitioner February 10, 2012.
5. Attached to this Declaration as Exhibit C is Registrant's Response to Petitioner's First Request for Production of Documents and Things to Registrant which was served upon Petitioner February 10, 2012.

6. Attached to this Declaration as Exhibit D is a true and accurate copy of an e-mail tracking report that was generated via a delivery receipt request made by Colleen F. Goss, Attorney for Petitioner, when she sent an e-mail to Mr. DeJohn on February 13, 2012. This document was saved in our firm Filesite® document management software.

7. Attached to this Declaration as Exhibit E is a true and accurate copy of an e-mail tracking report that was generated via a read receipt request made by Ms. Goss when she sent an e-mail to Mr. DeJohn on February 13, 2012. This document was saved in our firm Filesite® document management software and shows that the e-mail was read on February 14, 2012.

8. Attached to this Declaration as Exhibit F is a true and accurate copy of an e-mail Mr. DeJohn sent to Ms. Goss on February 14, 2012. This document was saved in our firm Filesite® document management software.

9. Attached to this Declaration as Exhibit G is a true and accurate copy of the Executive Management Team roster that I downloaded from the CampusEAI website (www.campuseai.org) on February 17, 2012.

10. Attached to this Declaration as Exhibit H is a true and accurate copy of the public attorney information for Michael Christopher DeJohn that I downloaded from the website for the Ohio Supreme Court (www.sconet.state.oh.us/AttySvc/AttyReg/Public_AttorneyDetails.asp?ID=0077227) on February 17, 2012.

11. Attached to this Declaration as Exhibit I is a true and accurate copy of US Trademark Registration No. 3,694,718 that I downloaded from the USPTO website on February 17, 2012.

12. Attached to this Declaration as Exhibit J is a true and accurate copy of US Trademark Registration No. 3,671,697 that I downloaded from the USPTO website on February 17, 2012.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Cleveland, Ohio on February 21, 2012.

/s/ Diane M. Jacquinot
Diane M. Jacquinot

CLEV 700117US01 (480785.1)

Jacquinet Declaration

Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 3,735,435
For the Mark: UNIVERSITY OF CLEVELAND
Registered: January 5, 2010

Cleveland State University,)	
)	
Petitioner,)	
)	Cancellation No. 92053509
v.)	
)	
CampusEAI Consortium,)	
)	
Registrant.)	
_____)	

Answers to:

PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSION

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Petitioner, Cleveland State University (hereinafter "Petitioner" or "Cleveland State University"), hereby requests Registrant, CampusEAI Consortium (hereinafter "Registrant" or "CampusEAI"), to make the following admissions within thirty (30) days after service of this request, for purposes of this action only and subject to all pertinent objections to admissibility which may be interposed at trial.

DEFINITIONS AND INSTRUCTIONS

Petitioner incorporates by reference the definitions and instructions in Petitioner's First Set of Interrogatories to Registrant.

Docketed
as rcvd

REQUESTS FOR ADMISSIONS

REQUEST NO. 1

Admit that Registrant filed U.S. Trademark application Serial No. 77/594,292 for the mark UNIVERSITY OF CLEVELAND on October 16, 2008.

RESPONSE:

Admit.

REQUEST NO. 2

Admit that Registrant amended application Serial No. 77/594,292 April 1, 2009 to seek registration of the mark UNIVERSITY OF CLEVELAND on the Supplemental Register.

RESPONSE:

Admit.

REQUEST NO. 3

Admit that on January 5, 2010, Registration 3,735,435 issued as a U.S. Trademark Registration on the Supplemental Register for the mark UNIVERSITY OF CLEVELAND.

RESPONSE:

Admit.

REQUEST NO. 4

Admit that prior to its filing of U.S. Trademark Application Serial No. 77/594,29 October 16, 2008 Registrant was aware of Petitioner's U.S. Trademark Registration Nos. 3,671,697 and 3,694,718 for the marks CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design, respectively.

RESPONSE:

Admit.

REQUEST NO. 5

Admit that the common portion of Registrant's marks is UNIVERSITY and CLEVELAND.

RESPONSE:

Admit.

REQUEST NO. 6

Admit that the word phrase CLEVELAND STATE UNIVERSITY in Petitioner's U.S. Trademark Registration Nos. 3,671,697 and 3,694,718 is similar to the UNIVERSITY OF CLEVELAND portion of Registrant's marks Registration No. 3,735,435.

RESPONSE:

Deny.

REQUEST NO. 7

Admit that the Services identified in Registration No. 3,735,435 are educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology in International Class 41.

RESPONSE:

Admit.

REQUEST NO. 8

Admit that the services identified in Registration No. 3,671,697 for the mark CLEVELAND STATE UNIVERSITY are lending libraries; publication of books;

publication of electronic books and journals on-line; educational services, namely, providing courses at the undergraduate and graduate university level and distributing course material therewith; extension, continuing and community educational services, namely, conducting classes, public lectures, workshops, seminars, conferences and exhibitions in the fields of engineering, law, business, arts and humanities, natural and physical sciences, architecture, journalism, education, international and public affairs, public health, social work, behavioral sciences, and mathematics and distributing course material therewith; educational research; entertainment services, namely, arranging and conducting athletic events and tournaments, exhibitions, conferences, live performances and festivals in International Class 41.

RESPONSE:

Admit.

REQUEST NO. 9

Admit that the services identified in Registration No. 3,694,718 for the mark CLEVELAND STATE UNIVERSITY 1964 w/Design are lending libraries; publication of books; publication of electronic books and journals on-line; educational services, namely, providing courses at the undergraduate and graduate university level and distributing course material therewith; extension, continuing and community educational services, namely, conducting classes, public lectures, workshops, seminars, conferences and exhibitions in the fields of engineering, law, business, arts and humanities, natural and physical sciences, architecture, journalism, education, international and public affairs, public health, social work, behavioral sciences, and mathematics and distributing course material therewith; educational research; entertainment services, namely, arranging and conducting athletic events and

tournaments, exhibitions, conferences, live performances and festivals in International Class 41.

RESPONSE:

Admit.

REQUEST NO. 10

Admit that the Services identified in Registration Nos. 3,735,435, 3,671,697, and 3,694,718 are substantially identical.

RESPONSE:

Deny.

REQUEST NO. 11

Admit that the Services identified in Registration Nos. 3,735,435, 3,671,697, and 3,694,718 travel in the same channels of trade.

RESPONSE:

Addmit.

REQUEST NO. 12

Admit that Registrant did not offer Services in conjunction with the mark UNIVERSITY OF CLEVELAND prior to June 18, 2008.

RESPONSE:

Deny.

REQUEST NO. 13

Admit that Registrant did not offer Services in conjunction with the mark UNIVERSITY OF CLEVELAND prior to June 19, 2008.

RESPONSE:

Deny.

REQUEST NO. 14

Admit that Registrant did not offer Services in conjunction with the mark UNIVERSITY OF CLEVELAND prior to August 25, 2009.

RESPONSE:

Deny.

REQUEST NO. 15

Admit that Registrant did not offer Services in conjunction with the mark UNIVERSITY OF CLEVELAND prior to October 13, 2009.

RESPONSE:

Deny.

REQUEST NO. 16

Admit that Registrant does not offer Services in conjunction with the mark UNIVERSITY OF CLEVELAND.

RESPONSE:

Deny.

REQUEST NO. 17

Admit that Registrant does not use the phrase UNIVERSITY OF CLEVELAND as a service mark.

RESPONSE:

Deny.

REQUEST NO. 18

Admit that the services listed in Registration Nos. 3,735,435, 3,671,697, and 3,694,718 would conceivably be offered to the same consumers.

RESPONSE:

Deny.

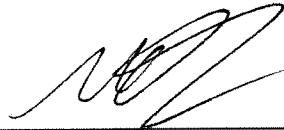
REQUEST NO. 19

Admit that a relevant consumer or business is likely to be confused as to the UNIVERSITY OF CLEVELAND and CLEVELAND STATE UNIVERSITY or CLEVELAND STATE UNIVERSITY 1964 w/Design as between the Registrant and Petitioner.

RESPONSE:

Deny.

Respectfully submitted,



Michael C. DeJohn (0077227)
1111 Superior Avenue, Suite 310
Cleveland, Ohio 44114
Phone: (216) 589-9626
Fax: (216) 589-9639

Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2011, the foregoing Answer's to **PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSION** was served via email, with consent, on Colleen F. Goss, Esq., counsel for the Petitioner at cfgoss@faysharpe.com.

A handwritten signature in black ink, appearing to read 'MDJ', is written over a horizontal line.

Michael C. DeJohn (0077227)
Attorney for Registrant

Jacquinet Declaration

Exhibit B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,735,435
For the Mark: UNIVERSITY OF CLEVELAND
Registered: January 5, 2010

Petitioner's Reference No.: CLEV700117US01

Cleveland State University,

Petitioner,

v.

CampusEAI Consortium,

Registrant.

Cancellation No. 92053509

PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT

Petitioner, Cleveland State University (hereinafter "Petitioner" or "Cleveland State University"), hereby requests that Registrant, CampusEAI Consortium (hereinafter "Registrant" or "CampusEAI"), pursuant to Rule 33 of the Federal Rules of Civil Procedure ("FRCP") and 37 C.F.R. 2.120 answer under oath the following Interrogatories within thirty (30) days after service of these Interrogatories. These Interrogatories are deemed to be continuing so as to require a prompt supplemental answer should Registrant obtain further information pertaining thereto between the time answers are served and the time of trial. The Definitions begin on page 2, the Instructions begin on page 8, and the Interrogatories begin on page 11.

DEFINITIONS

The following definitions are applicable to the terms employed in these interrogatories.

1. The term "Registrant" or "CampusEAI" or "you" as used in these definitions, interrogatories and any request for the production of documents and tangible things shall include the Registrant, CampusEAI, as well as its subsidiaries, affiliates, divisions, corporate predecessors, and any other legal entities that are wholly or partly owned or controlled, or are controlled by Registrant, either directly or indirectly, and all present and future directors, owners, officers, employees, counsel (including, but not limited to all house and outside counsel), agents, consultants, experts, representatives and all other persons acting, or purporting to act on behalf of Registrant, its subsidiaries, affiliates, divisions, predecessors and any other legal entities that are wholly or partly owned or controlled by Registrant.

2. The term "Registrant's Mark" means UNIVERSITY OF CLEVELAND, (Reg. No. 3,735,435) and/or the word mark UNIVERSITY OF CLEVELAND, either alone or in conjunction with other letters, words, numbers or symbols.

3. As used in these definitions, Interrogatories and any Request for Production of Documents and tangible things or any Request for Admissions, the term "document" or "documents" has the meaning prescribed in Rule 34 of the Federal Rules of Civil Procedure and includes, but is not limited to, all types of recorded information in the possession of or under the control of Registrant, or known to Registrant, whether printed, recorded, stored, reproduced by any process, written or produced by hand, and whether or not claimed to be privileged, the subject of work product immunity, or exempt

from production for any reason, and includes in addition to the originals or original copy, copies of whatever kind which contain any alteration, marking, or omission, or that are in any other way not identical with the original or with the original copy, more specifically including, but not limited to, papers, notes, accounts, books, advertisements, logs, catalogs, manuals, publications, correspondence, cablegrams, mail grams, telegrams, memoranda, electronic mail, voice mail, letters, documents, communications, including interoffice and intra-office communications, reports, studies, analysis, pamphlets, calculations, projections shop notebooks, charts, plans and specifications, sketches, surveys, drawings, working papers, agreements, maintenance records for testing or analysis equipment, invention disclosure records, photographs, floppy disc recorded information, tape recorded information, volatile or non-volatile random access or read only memory, hard disc information, CD ROM information, office notes, pleadings, briefs, microfiche, business records, minutes of Board of Directors and committee meetings, account records, ledger records, notebooks, laboratory notes, vouchers, bank checks, cashiers' checks, receipt of cashiers' checks, purchase orders, invoices, bills of lading, canceled checks, check stubs, bills, receipts, invoices, desk calendars, time sheets, appointment books, telephone bills, diaries, diary entries and notes, minutes, transcriptions or sound recordings of any type of personal or telephone conversations or of negotiations, meetings or conferences or events similar to the foregoing, telecopy transmission letters, blue sheets, flow sheets, circulars, periodicals, graphical or tabular data developed during testing or analysis, and all other papers, writings, recordings, or physical things containing information. As used herein "document" includes all electronically stored information ("ESI").

4. The term "person" includes, but is not limited to natural persons, organizations, firms, corporations, partnerships, sole proprietorships and any other legal entities, and the acts of a person include, but are not limited to those acts of directors, owners, officers, counsel (including, but not limited to, house and outside counsel), agents, consultants, experts, members, employees, representatives and all others acting or purporting to act on the person's behalf.

5. As used in these definitions, Interrogatories, and any Request for Production of Documents and tangible things or Request for Admissions, the term "things" has the meaning prescribed in Rule 34 of the Federal Rules of Civil Procedure and includes every kind of physical specimen or tangible item, other than a document.

6. The term "identify" means:

- (a) When used with respect to a "document" or "documents" or tangible thing to state:
 - (1) the type of document or tangible thing ("e.g., letter, memorandum, recorded diskette, etc.);
 - (2) the name and date of the document (and if not dated, the approximate date);
 - (3) the date the document was prepared (and if not known, the approximate date);
 - (4) the date the document was sent;
 - (5) the number of pages comprising the document;
 - (6) the subject matter of the document;

- (7) the full name, address, and title (if any) of the person preparing or offering the document, together with his present or last known position and business affiliation;
- (8) the full name, address, and title (if any) of the person to whom the document was addressed, the full names and addresses of all the persons to whom copies of the document would have been sent and the firm(s) or other business entities with which all such persons were connected at the date of the document;
- (9) all other information, the nature and substance of which is necessary to enable the document to be identified.

With further respect to the identity of documents, state whether Registrant is in possession of the original, master or a copy of the document and if not in possession of the original, master and all copies, furnish the name and last known address of the custodian of the original, master or copy or if the document or thing is no longer within your possession, custody or control, state what disposition was made of it; state the date of such disposition; identify every person who participated in or approved the disposition; and identify the person or persons having knowledge of its contents. In lieu of identifying documents in the foregoing manner, you may identify them by document number and produce such documents for inspection pursuant to Rule 33(c) of the Federal Rules of Civil Procedure.

- (b) When used with respect to an individual or natural person to state:

- (1) his or her name;
 - (2) any other names used by him or her presently or in the past;
 - (3) his or her present or last known business address, resident address, and telephone number(s); and
 - (4) the corporation, partnership, association, foundation, trust, organization, or other entity, and the functional division thereof, with which he or she is now associated, and his or her title, status, position, rank or classification within such entity; and the job title and description of job responsibility of such person together with a statement as to any relationships, past or present, of such person and the exclusive dates thereof.
- (c) When used with respect to a person other than a natural person, including, but not limited to, any corporation, partnership, foundation, trust, organization, association or other entity or functional division thereof, to state:
- (1) its full name;
 - (2) the address of its principal office or place of business;
 - (3) all names under which it is doing business or has done business;
 - (4) the nature of the venture (e.g., sole proprietorship, partnership, etc.); and

(5) the identities of its officers, directors, partners or administrators.

(d) When used with respect to a fact to:

- (1) describe the fact;
- (2) state when it became known to you;
- (3) identify the source from which you learned it;
- (4) identify the documents that record, show or refer to the fact;
and
- (5) state why you believe the fact is true.

7. The term "located" as used herein in connection with a "document" or "documents" means a demand to state the present location and/or whereabouts of each document, and to identify the persons having possession, custody or control thereof.

8. "Or" means and/or.

9. Unless otherwise apparent from the context, a request for the identity of a person means the identity of all persons within the specified category.

10. The terms "Petitioner" and "Cleveland State University mean" Cleveland State University.

11. The term "Petitioner's Marks" means CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design (Reg. Nos. 3,671,697 and 3,694,718, respectively) and/or the word mark CLEVELAND STATE UNIVERSITY, either alone or in conjunction with other letters, words, numbers or symbols.

12. The terms "Good" or "Goods" or "Product" or "Products" means any good or product manufactured, advertised, marketed, offered for sale, sold, shipped, transported, distributed, or made available, either directly or indirectly, by or on behalf of Registrant, to any person, distributor, agent, or salesperson in the USA.

13. The terms "Service" or "Services" means any service provided, advertised, marketed, offered for sale, sold, or otherwise made available, either directly or indirectly, by or on behalf of Registrant, to any person, agent, or salesperson in the USA.

INSTRUCTIONS

1. When answering Interrogatories, you are required to furnish such information as is available to Registrant, including but not limited to information known to its directors, owners, officers, employees, counsel (including, but not limited to, house or outside), agents, consultants, experts, representatives or anyone acting or purporting to act for or on its behalf.

2. If you have no information about the subject of a particular Interrogatory, or if for some other reason you are unable to answer it, the response to that Interrogatory should specifically so state, and no Interrogatory should be without some response.

3. If you cannot answer an Interrogatory completely, answer as fully as you can and specify the ways in which your response may be incomplete because of your lack of knowledge. If you do not know exact dates, amounts, or other facts with certainty, but you have information from which you can make an appropriate or estimated answer, do so and indicate that the answer is approximate or estimated because you lack more precise information.

4. If any of the documents requested to be identified herein have been destroyed, identify each such document, state the date upon which the document was destroyed and state the reason it was destroyed.

5. If Registrant withholds from production any of the requested documents on the basis of an alleged privilege, immunity, exception or other justification, provide, within thirty (30) days of service of this request, or at a time mutually agreed upon by the parties, a list identifying each withheld document including:

- (a) the date of the document,
- (b) the full name and address of the author of the document or originator of the thing,
- (c) the full name and address of every recipient of the original or any copy of the document or thing and the name and address of each person who now has the original or any copy and the identification and location wherein the original and each copy are normally kept,
- (d) the subject matter of the document,
- (e) the type of document (memorandum, pamphlet, report, etc.),
- (f) the specific grounds for withholding the document in sufficient detail for the Board to rule on the merits of the asserted privilege or immunity,
- (g) the number of the document request to which the document pertains, and
- (h) the type of factual matter involved in the assertion of privilege to the extent necessary for understanding the assertion.

6. If you have any previously provided information requested in an Interrogatory, in an answer to a preceding Interrogatory, or in documents filed in this action (including answers to interrogatories or depositions), you may answer such interrogatories by reference to the document or answer to a preceding Interrogatory providing the information requested. But, to the extent that the referenced document or answer to a preceding Interrogatory does not provide all of the information that is known to you (including but not limited to specific details, the identity and locations of persons,

the description and location of documents or tangible things, etc.) that is called for by the Interrogatory, state all such information in your answer to the Interrogatory.

7. It will be a sufficient answer to an Interrogatory calling for you to identify documents to state either (a) that such documents already have been produced in this action and have been specifically identified on record, provided that you reference the record identifying the documents, or (b) that such documents will be produced in accordance with the request for production of documents served upon you, if you actually produce such documents. Any documents that you have been requested to identify that you cannot or will not produce must be identified as requested, to the extent possible, whether or not they are in your possession, custody, or control.

8. Documents produced in lieu of answering any Interrogatory pursuant to Federal Rule of Civil Procedure 33(c), should be expressly identified to the Interrogatory to which they pertain.

9. Except as otherwise expressly directed herein, each paragraph of the interrogatories, should be construed independently and not by reference to any other paragraphs herein for purposes of limiting the scope of the Interrogatory being answered.

INTERROGATORIES

INTERROGATORY NO. 1:

Please identify each officer and director of the Registrant and describe their respective responsibilities or duties.

RESPONSE:

Arun Kumar – CFO. He is responsible for the strategic mission and offerings of the registrant.

INTERROGATORY NO. 2:

Please identify each natural person currently or previously employed by Registrant or who works for or has worked for or on behalf of Registrant, who is or was responsible for decisions involving the use, application for registration, protection, or enforcement of the Registrant's Mark by Registrant and describe that person's responsibilities relating to the use, application for registration, protection, or enforcement of the mark.

RESPONSE:

Ash Bard – involved in promoting the services and offering of the Registrant

Arun Chopra - involved in promoting the services and offering of the Registrant

INTERROGATORY NO. 3:

Please identify all state and federal registrations, applications for registration, trademarks, service marks, trade names, and uses by Registrant that include Registrant's Mark.

RESPONSE:

Federal Trademark – The University of Cleveland.

INTERROGATORY NO. 4:

State the date when Registrant first began using the term UNIVERSITY OF CLEVELAND as a service mark or other identifying designation in connection with education services, namely providing university level instruction and courses.

RESPONSE:

9/20/05

INTERROGATORY NO. 5:

Please identify all Services offered by Registrant under Registrant's Mark.

RESPONSE:

Certificate online and/or onsite programs for IT.

INTERROGATORY NO. 6:

List all Goods or Products sold by Registrant under Registrant's Mark.

RESPONSE:

None. Training programs only.

INTERROGATORY NO. 7:

For each Service offered by Registrant under Registrant's Mark, please describe in detail the trade channel(s) through which the Services are provided.

RESPONSE:

Direct marketing via phone and/or e-mail.

INTERROGATORY NO. 8:

For each Good or Product offered by Registrant under Registrant's Mark, please describe in detail the trade channel(s) through which the Goods or Products are provided.

RESPONSE:

NA.

INTERROGATORY NO. 9:

Please state all reasons why Registrant selected Registrant's Mark.

RESPONSE:

Because the registrant is located in the city of Cleveland.

INTERROGATORY NO. 10:

Describe the process by which Registrant selected Registrant's Mark.

RESPONSE:

Reviewed the USPTO website and learned that no trademarks existed for the name University of Cleveland.

INTERROGATORY NO. 11:

Identify all documents that bear Registrant's Mark which are viewed by customers or prospective customers of Registrant's Services, Goods, or Products.

RESPONSE:

None.

INTERROGATORY NO. 12:

Identify the types of consumers to whom Registrant's Services, Goods, or Products are offered under Registrant's Mark.

RESPONSE:

Persons seeking education or training in the IT space.

INTERROGATORY NO. 13:

For each of the Services identified in response to Interrogatory No. 5, please state the total revenue derived from providing such Services.

RESPONSE:

0.

INTERROGATORY NO. 14:

For each of the Services identified in response to Interrogatory No. 5, please state the date of first use in commerce of Registrant's Mark by or on behalf of Registrant on or in association with such Services.

RESPONSE:

9/20/05

INTERROGATORY NO. 15:

For each of the Services identified in response to Interrogatory No. 5, please identify the geographic area (by city and/or state) in which such Services have been offered, provided, and/or sold.

RESPONSE:

India.

INTERROGATORY NO. 16:

For each of the Goods or Products identified in response to Interrogatory No. 6, please state the total revenue derived from providing such Goods or Products.

RESPONSE:

NA

INTERROGATORY NO. 17:

For each of the Goods or Products identified in response to Interrogatory No. 6, please state the date of first use in commerce of Registrant's Mark by or on behalf of Registrant on or in association with such Goods or Products.

RESPONSE:

NA

INTERROGATORY NO. 18:

For each of the Goods or Products identified in response to Interrogatory No. 6, please identify the geographic area (by city and/or state) in which such Goods or Products have been offered, provided, and/or sold.

RESPONSE:

NA

INTERROGATORY NO. 19:

For each Service, Good, or Product offered by Registrant under Registrant's Mark, please identify all documents upon which Registrant will rely to establish the first use date.

RESPONSE:

All documents submitted to the USPTO when applying to for the Mark.

INTERROGATORY NO. 20:

Please list all media, including printed or electronic publications and websites, direct marketing, newsprint, radio, television, or other broadcast media, in the United States by which Registrant has advertised, marketed, distributed, or sold any Service, Good, or Product under Registrant's Mark.

RESPONSE:

None.

INTERROGATORY NO. 21:

Please state whether any searches or investigations were conducted by Registrant or any person on its behalf to determine whether Registrant's Mark was available for use and/or registration and, if so, identify each such search or investigation including the date such search or investigation was performed and all marks or uses located in such search or investigation.

RESPONSE:

See Answer to #10 above.

INTERROGATORY NO. 22:

Identify each person who supervised, participated in or was involved in the origination, clearance, selection, and adoption of the Registrant's mark to identify Registrant and Registrant's Goods and Services, and describe with particularity the circumstances surrounding the origination, clearance, selection, and adoption of the Registrant's Mark including, but not limited to, the date of origination, the derivation of the mark, and/or the meaning or suggestive connotation of the mark, if any.

RESPONSE:

Arun Kumar

INTERROGATORY NO. 23:

Describe fully each instance in which Registrant has objected in any way to the use or registration of a third party mark on the basis that the third party mark is confusingly similar to Registrant's Mark, and describe the outcome and current status of each dispute.

RESPONSE:

None.

INTERROGATORY NO. 24:

Other than the present cancellation proceeding, describe fully each instance in which a third party has objected in any way to the use or registration of a mark by Registrant and describe the outcome and current status of each such dispute.

RESPONSE:

None.

INTERROGATORY NO. 25:

Please identify all inquiries, investigations, surveys, evaluations, and/or studies conducted by Registrant or by anyone acting for or on its behalf that refer or relate in any manner to Registrant's Mark, including the date conducted, the name, address, and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made, and identify all documents which record, refer to, or relate to such inquiry, investigation, survey, evaluation, or study.

RESPONSE:

None.

INTERROGATORY NO. 26:

Please identify all legal and non-legal opinions concerning availability of Registrant's Mark for use or registration by Registrant.

RESPONSE:

None.

INTERROGATORY NO. 27:

For each Service, Good, and Product associated with Registrant's Mark, please state the amount expended by Registrant in the United States in connection with the sale, advertising, marketing, promotion, and/or distribution of the Service, Good, or Product for each calendar year since commencement of use of Registrant's Mark.

RESPONSE:

This number is unable to be calculated. Registrant has employees on staff who also spend time working on other things.

INTERROGATORY NO. 28:

For each Service, Good, and Product associated with Registrant's Mark, please state the gross amount of sales by Registrant in the United States for each calendar year since commencement of use of Registrant's Mark.

RESPONSE:

None.

INTERROGATORY NO. 29:

State with particularity the date(s) when, and circumstances under which, Registrant first became aware of:

- a. the Petitioner;
- b. any or each of Petitioner's U.S. Trademark Registrations for the Petitioner's Marks;
- c. the existence of Petitioner's use, promotion, marketing, or advertisement of Petitioner's Marks.

The answer to each section (a, b, c) shall include the date such knowledge was obtained, the person(s) who obtained such knowledge, how such knowledge was obtained, the exact nature of the knowledge obtained, and identify all documents that relate to such knowledge.

RESPONSE:

- a. Registrant is a corporation and thus cannot provide a date
- b. When the instant proceeding was filed
- c. When the instant proceeding was filed

INTERROGATORY NO. 30:

Identify any opinions obtained by Registrant relating to the validity, enforceability, and infringement of Registrant's Mark, including the date any such opinions were prepared, the author, the date received by Registrant, each recipient thereof, each person with whom the opinion was discussed, and each reference referred to in the opinion.

RESPONSE:

None.

INTERROGATORY NO. 31:

Describe all instances of actual confusion, mistake, and/or deception known to Registrant as to the source of Petitioner's Products, Goods, and Services and Registrant's Products, Goods, or Services.

RESPONSE:

None.

INTERROGATORY NO. 32:

Please identify representative documents that Registrant presents to customers or potential customers in promoting its Products, Goods, and Services under Registrant's Mark, and describe the circumstances of such presentations.

RESPONSE:

None.

INTERROGATORY NO. 33:

Identify all agreements, including licenses and assignments, entered into by Registrant relating to the Registrant's mark, and identify all persons participating in the negotiation and creation of each such agreement and the parties to each such agreement.

RESPONSE:

None.

INTERROGATORY NO. 34:

Please identify any instances of actual or proposed licensing of Registrant's Mark by or on behalf of Registrant, and identify the person most knowledgeable thereof.

RESPONSE:

None.

INTERROGATORY NO. 35:

Please state whether or not Registrant currently uses Registrant's Mark.

RESPONSE:

Yes.

INTERROGATORY NO. 36:

If Registrant no longer uses Registrant's Mark, identify when use of Registrant's Mark ceased.

RESPONSE:

NA.

INTERROGATORY NO. 37:

For each interrogatory, please identify all documents which were used (a) to provide the response to the interrogatory or (b) to provide proof of each fact in the response to the interrogatory.

RESPONSE:

Acknowledged.

INTERROGATORY NO. 38:

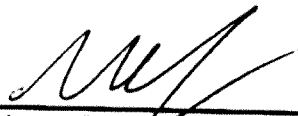
Please identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which that person participated in or supplied information.

RESPONSE:

Arun Kumar – all Answers.

Dated: February 10, 2012

Respectfully submitted,

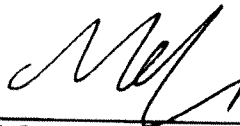


Michael C. DeJohn
1111 Superior Avenue, Suite 310
Cleveland, Ohio 4411
Phone: (216) 589-9626
Fax: (216) 589_9639

Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2012, the foregoing Answers to **PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT** was served via email, with consent, on counsel for the Registrant at cfgoss@faysharpe.com.



Michael C. DeJohn
Attorney for Petitioner

Jacquinet Declaration

Exhibit C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,735,435
For the Mark: UNIVERSITY OF CLEVELAND
Registered: January 5, 2010

Petitioner's Reference No.: CLEV700117US01

Cleveland State University,

Petitioner

v.

CampusEAI Consortium,

Registrant.

Cancellation No. 92053509

**PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND
THINGS TO REGISTRANT**

Petitioner, Cleveland State University (hereinafter "Petitioner" or "Cleveland State University"), hereby requests that Registrant, CampusEAI Consortium (hereinafter "Registrant" or "CampusEAI"), produce and permit inspection and copying by Petitioner of all documents and/or things described below pursuant to Rule 2.120 of the Trademark Rules of Practice of the Patent and Trademark Office, and Rule 34 of the Federal Rules of Civil Procedure. Petitioner requests that Registrant produce responsive documents as they are kept in the usual course of business, or organized and labeled to correspond with the document request to which they are responsive.

Petitioner requests that Registrant produce the requested documents and things at the offices of Fay Sharpe LLP, The Halle Building, 5th Floor, 1228 Euclid Avenue, Cleveland, Ohio 44115, or some other place to be agreed upon by the parties within thirty (30) days following service or at the time mutually agreed upon by the parties.

This request shall be deemed to seek documents and tangible things that are in the possession, custody or control of Registrant as of the date hereof, and shall be deemed to be continuing such that any document or tangible thing relating in any way to this request which comes into the possession, custody or control of Registrant up to, and including, the time of trial is requested to be produced and made available to Petitioner for inspection and copying within a reasonable time after they are acquired or become known to be in the possession, custody or control of Registrant.

If any of the documents requested herein have been destroyed, identify each such document, state the date upon which the document was destroyed and state the reason it was destroyed.

If Registrant withholds from production any of the requested documents on the basis of an alleged privilege, immunity, exception or other justification, Petitioner requests that Registrant provide, within thirty (30) days of service of this request, or at a time mutually agreed upon by the parties, a list identifying each withheld document including: (1) the date of the document, (2) name and title or position of the author(s) of the document, (3) name and title or position of persons designated as addressees receiving copies of the document, (4) the subject matter of the document, (5) the type of document (memorandum, report, etc.), (6) the specific grounds for withholding the document in sufficient detail for the Board to rule on the merits of the asserted privilege or immunity, and (7) the number of the document requested to which the document pertains.

DEFINITIONS AND INSTRUCTIONS

Petitioner incorporates by reference the definitions and instructions in Petitioner's First Set of Interrogatories to Registrant.

REQUEST FOR PRODUCTION OF DOCUMENTS

DOCUMENT REQUEST NO. 1:

All documents , things and ESI identified in, relating to, or relied upon inconnection with Registrant's answers and/or responses to Petitioner's First Set of Interrogatories to Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 2:

All documents, things and ESI related to the marketing, advertising, offer of sale, use, and/or promotion of the Services, Goods, or Products under Registrant's Mark by or on behalf of Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 3:

Representative samples of advertisements, promotional materials, packaging, labeling or other materials or documents, things and ESI bearing Registrant's Mark .

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 5:

Representative invoices for sales of each Product, Good or Service for each year Registrant's Mark has been used in connection therewith

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 6:

All documents relating to the prosecution of any state or federal applications for registration of any trademarks, service marks, or trade names containing Registrant's Mark

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 5:

Any opinions of any counsel relating to the validity, infringement, or enforcement of any of Registrant's U.S. Trademark Applications for Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 6:

Copies of all trademark searches conducted by or for Registrant concerning Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 7:

Copies of all legal or non-legal opinions concerning the availability of Registrant's Mark for use or registration by Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 8:

Copies of all documents that bear Registrant's Mark which are viewed by customers or prospective customers of Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 9:

All documents that relate to or reference Petitioner.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 10:

All documents that relate to Registrant's knowledge of Petitioner's CLEVELAND STATE UNIVERSITY or CLEVELAND STATE UNIVERSITY 1964 w/Design marks or the use of CLEVELAND STATE UNIVERSITY.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 11:

All documents related to the origination, adoption, conception, selection, design, development, or creation of the Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 12:

All documents related to the use of Registrant's Mark in association with Registrant's Services, Goods, or Products.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 13:

All documents that report on, describe, refer to, and/or relate to Registrant's use of Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 14:

All documents which relate to or reflect the date of Registrant's first introduction, first offer for sale, first sale, and first use of Registrant's Mark in the United States.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 16:

All documents which Registrant will rely upon to establish that Registrant's Mark is currently being used in the United States, including any and all documents showing the Products, Goods, or Services for which the Registrant's Mark is being used by or on behalf of the Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 18:

All documents that describe, discuss, state, refer to, and/or relate to actual or intended channels of distribution and/or trade for Registrant's Products or Services bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 19:

All documents showing Registrant's annual advertising, marketing, and promotional expenses for each Product, Good, or Service related to Registrant's Mark for each year from the date of first use to the present date.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 20:

Representative samples of advertising, marketing, or promotional materials bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 21:

All licenses granted to Registrant by any third party or granted by Registrant to any third party with respect to Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 22:

All documents concerning contracts, agreements, licenses, consents, and the like to which Registrant is a party and which relate to Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 23:

All documents concerning quality control exercised by Registrant over the use of Registrant's Mark by third parties.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 24:

Each document pertaining to any informal or formal dispute in the United States, including, but not limited to an opposition, revocation, arbitration, mediation, negotiation, or adversary proceeding between Registrant and any other party, which includes or included an allegation of infringement, unfair competition, likelihood of confusion, deception, deceptive trade practice, or dilution involving Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 25:

All documents concerning efforts by Registrant to enforce its rights in Registrant's Mark including but not limited to cease and desist letters, opposition proceedings, cancellation proceedings, and litigation.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 26:

All documents concerning any objection raised by third parties to Registrant's use or registration of Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 27:

All documents that describe, discuss, state, refer to, and/or relate to other marks that Registrant considered before adopting and/or while continuing to use Registrant's Mark on its Products or in connection with its Services, including but not limited to, all documents showing any changes made to the mark from the date of conception to the present date.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 28:

All documents that identify, classify, refer to, and/or relate to the actual and/or intended purchasers and/or customer (and end users, if different) of Registrant's Products, Goods, or Services bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 29:

All documents that identify providers of Services by or on behalf of Registrant under Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 30:

All documents that identify recipients of Services by or on behalf of Registrant under Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 31:

All documents concerning any surveys, market research studies, or reports undertaken by or on behalf of Registrant concerning a mark incorporating the phrase UNIVERSITY OF CLEVELAND.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 32:

All documents concerning any communication about Registrant relating to Registrant's Services or Products under Registrant's Mark in newspapers, magazines, trade journals, or other printed form of communication.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 33:

All documents of any court which were filed against or by Registrant and/or any correspondence directed to Registrant, complaining about the use by Registrant or any third party of a mark or term including the term UNIVERSITY OF CLEVELAND in the United States.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 34:

All documents which refer to or reflect any research, trademark maintenance program, advertising campaign, Internet strategy, and/or marketing program for Registrant's Products, Goods, or Services bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 35:

All documents concerning plans to expand, or steps toward expansion by Registrant the types of Services, Goods, or Products on or in connection with which Registrant's Mark is or will be used beyond the services stated in Trademark Registration No. 3,735,435, or to alter the present or intended channels of trade, or to sell to persons other than Registrant's present or intended purchasers.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 36:

All documents which relate to instances of actual confusion, mistake, and/or deception as to whether the source of a Product, Good, or Service was Registrant or Petitioner.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 37:

All documents concerning any communication received by Registrant which Registrant believes was intended for Petitioner.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 38:

All documents concerning or tending to show any confusion likely to arise or actual confusion that has arisen out of the contemporaneous use of the mark

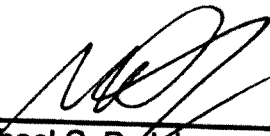
CLEVELAND STATE UNIVERSITY by Petitioner and UNIVERSITY of CLEVELAND by Registrant or the contemporaneous marketing of Petitioner's Services, Products, or Goods and Registrant's Services, Products, or Goods under the respective marks.

RESPONSE:

There are no responsive documents.

Dated: February 10, 2012

Respectfully submitted,




Michael C. DeJohn
1111 Superior Avenue, Suite 310
Cleveland, Ohio 44114
Phone: (216) 589-9626
Fax: (216) 589-9639

Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2012, the foregoing Answers to **PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT** was served via email, with consent, on counsel for the Registrant at cfgoss@faysharpe.com.



Michael C. DeJohn
Attorney for Registrant

Jacquinet Declaration

Exhibit D

Colleen F. Goss

From: Colleen F. Goss
Sent: Tuesday, February 14, 2012 10:56 AM
To: 'Michael DeJohn (CampusEAI Consortium)'
Cc: Jude A. Fry; Rita M. Sulic; Docketing
Subject: RE: University of Cleveland

Tracking:	Recipient	Delivery	Read
	'Michael DeJohn (CampusEAI Consortium)'		
	Jude A. Fry	Delivered: 2/14/2012 10:56 AM	
	Rita M. Sulic	Delivered: 2/14/2012 10:56 AM	Read: 2/14/2012 10:58 AM
	Docketing		
	dlightbody@faysharpe.com	Delivered: 2/14/2012 10:56 AM	
	dschneider@faysharpe.com	Delivered: 2/14/2012 10:56 AM	
	MKliever@faysharpe.com	Delivered: 2/14/2012 10:56 AM	

From: Colleen F. Goss
Sent: Monday, February 13, 2012 2:12 PM
To: 'Michael DeJohn (CampusEAI Consortium)'
Cc: Jude A. Fry; Rita M. Sulic; Docketing
Subject: RE: University of Cleveland

Michael,

Where is the signed verification for the interrogatory response?

Colleen



Protecting Ideas Since 1884

Colleen Flynn Goss, Esq.
Fay Sharpe LLP
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115
Main Telephone: 216.363.9000
Direct Telephone: 216.363.9132
Facsimile Number: 216.363.9001
E-mail: cfgoss@faysharpe.com

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From: Michael DeJohn (CampusEAI Consortium) [mailto:michael_dejohn@campuseai.org]
Sent: Friday, February 10, 2012 4:56 PM
To: Colleen F. Goss
Cc: Jude A. Fry; Rita M. Sulic
Subject: RE: University of Cleveland

Answers to Ints.

Michael C. DeJohn
V.P. of Corporate Development and General Counsel

Work: 216-589-9626 ext. 332
Fax: 216-589-9639

CampusEAI Consortium
1111 Superior Avenue, Suite 310
Cleveland, Ohio 44114
U.S.A.



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From: Colleen F. Goss [<mailto:cfgoss@faysharpe.com>]
Sent: Tuesday, September 27, 2011 4:17 PM
To: Michael DeJohn (CampusEAI Consortium)
Cc: Jude A. Fry; Rita M. Sulic
Subject: RE: University of Cleveland
Importance: High

Michael,

My apologies. I had some family issues that jumped in there. Here are the documents in word form.

Colleen



Colleen Flynn Goss, Esq.
Fay Sharpe LLP
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115
Main Telephone: 216.363.9000
Direct Telephone: 216.363.9132
Facsimile Number: 216.363.9001
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From: Michael DeJohn (CampusEAI Consortium) [mailto:michael_dejohn@campuseai.org]
Sent: Tuesday, September 27, 2011 10:14 AM
To: Colleen F. Goss
Subject: Univeristy of Cleveland

Colleen,

I am still waiting for your discovery in Word format. Did you receive my requests?

Michael C. DeJohn

V.P. of Corporate Development and General Counsel

Work: 216-589-9626 ext. 332
Fax: 216-589-9639

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Your input is important to improve upon our continuous efforts to service you better. Please e-mail my manager at anjli_jain@campuseai.org with any feedback.

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Your input is important to improve upon our continuous efforts to service you better. Please e-mail my manager at anjli_jain@campuseai.org with any feedback.

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Jacquinet Declaration

Exhibit E

Colleen F. Goss

From: Michael DeJohn (CampusEAI Consortium) <michael_dejohn@campuseai.org>
To: Colleen F. Goss
Sent: Tuesday, February 14, 2012 11:02 AM
Subject: Read: RE: University of Cleveland

Your message was read on Tuesday, February 14, 2012 11:02:01 AM (GMT-05:00) Eastern Time (US & Canada).

Jacquinet Declaration

Exhibit F

Colleen F. Goss

From: Michael DeJohn (CampusEAI Consortium) <michael_dejohn@campuseai.org>
Sent: Tuesday, February 14, 2012 11:06 AM
To: Colleen F. Goss
Cc: Jude A. Fry; Rita M. Sulic; Docketing
Subject: RE: University of Cleveland

Colleen,

I was out sick yesterday. Just trying to get caught up.

Michael C. DeJohn

V.P. of Corporate Development and General Counsel

Work: 216-589-9626 ext. 332
Fax: 216-589-9639

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Cleveland, Ohio 44114
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From: Colleen F. Goss [mailto:cfgoss@faysharpe.com]
Sent: Tuesday, February 14, 2012 10:56 AM
To: Michael DeJohn (CampusEAI Consortium)
Cc: Jude A. Fry; Rita M. Sulic; Docketing
Subject: RE: University of Cleveland

From: Colleen F. Goss
Sent: Monday, February 13, 2012 2:12 PM
To: 'Michael DeJohn (CampusEAI Consortium)'
Cc: Jude A. Fry; Rita M. Sulic; Docketing
Subject: RE: University of Cleveland

Michael,

Where is the signed verification for the interrogatory response?

Colleen



Colleen Flynn Goss, Esq.
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From: Michael DeJohn (CampusEAI Consortium) [mailto:michael_dejohn@campuseai.org]
Sent: Friday, February 10, 2012 4:56 PM
To: Colleen F. Goss
Cc: Jude A. Fry; Rita M. Sulic
Subject: RE: University of Cleveland

Answers to Ints.

Michael C. DeJohn
V.P. of Corporate Development and General Counsel

Work: 216-589-9626 ext. 332
Fax: 216-589-9639

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To: Michael DeJohn (CampusEAI Consortium)
Cc: Jude A. Fry; Rita M. Sulic
Subject: RE: University of Cleveland
Importance: High

Michael,

My apologies. I had some family issues that jumped in there. Here are the documents in word form.

Colleen

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Sharpe** LLP
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Fay Sharpe LLP
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From: Michael DeJohn (CampusEAI Consortium) [mailto:michael_dejohn@campuseai.org]

Sent: Tuesday, September 27, 2011 10:14 AM

To: Colleen F. Goss

Subject: Univeristy of Cleveland

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Michael C. DeJohn

V.P. of Corporate Development and General Counsel

Work: 216-589-9626 ext. 332

Fax: 216-589-9639

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Your input is important to improve upon our continuous efforts to service you better. Please e-mail my manager at anjli_jain@campuseai.org with any feedback.

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Jacquinet Declaration

Exhibit G

About

Executive Management Team

CampusEAI Consortium's leadership team includes talented education and information technology leaders. Their collective experience provides the Consortium with its world-class vision and leadership.

Anjli Jain

Executive Director
CampusEAI Consortium

Anjli Jain is the Executive Director of the CampusEAI Consortium.

As the Executive Director, Ms. Jain is responsible for strategic planning, designing and administering membership planning, and coordinating the CampusEAI Consortium's core initiatives.

Prior to joining the CampusEAI Consortium, Ms. Jain was the Executive Director of HEKATE (The Higher Education Knowledge & Technology Exchange) a higher education not-for-profit organization focused on teaching, learning, and technology. She was responsible for providing program leadership and administering the resources of the association. Ms. Jain guided the creation of a Web presence and an expansion of the association's programs in areas such as information literacy, public policy advocacy, networking with other higher education organizations, and strengthening opportunities for continuous learning.

Ms. Jain holds a Bachelor of Arts in Anthropology from Barnard College, Columbia University.



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Related Materials

- [Overview](#)
- [Core Values](#)
- [Strategic Technology Partners](#)
- [Affiliations](#)
- [Executive Advisory Committee](#)
- [Executive Management Team](#)

Arun Kumar Chopra

Chief Financial Officer
CampusEAI Consortium

Arun Kumar Chopra is the Chief Financial Officer of the CampusEAI Consortium.

As the Chief Financial Officer, Mr. Chopra is responsible for overseeing CampusEAI Consortium's accounting and finance organization, as well as growing and maintaining CampusEAI Consortium's relationships with the financial community. He also manages and enhances the company's performance management and operational processes and expense control program, in addition to developing a strong financial management organization within CampusEAI Consortium.

Mr. Chopra has over 40 years of experience in finance, higher education and information technology. Prior to joining the CampusEAI Consortium, Mr. Chopra served as a Sr. Consultant to California State University (CSU) and Case Western Reserve University's (CWRU) information technology departments. As a Sr. Consultant, Mr. Chopra was responsible for overseeing a number of information technology projects including CSU and CWRU's enterprise portal, email/calendaring, mobile, voice-over-IP, wireless and IPTV projects. Prior to his consulting roles with CSU and CWRU, Mr. Chopra was a successful entrepreneur for more than three decades. During the 1970s, 1980s, and 1990s, he founded and managed several companies in the textiles, food, hospitality, and real estate industries. Mr. Chopra's broad business background adds a depth of real-world knowledge to his ability to connect with CampusEAI Consortium's clients and vendors.

Mr. Chopra holds a Bachelor in Commerce degree from Delhi University.



Sumit Oberoi

Director of Operations
CampusEAI Consortium

Sumit Oberoi is the Director of Operations of the CampusEAI Consortium.

As Director of Operations, Mr. Oberoi works is responsible for overseeing CampusEAI Consortium's delivery, support and product development operations and refining functional and operational workflow and processes to ensure that member needs are taken care of with the highest level of service.

Mr. Oberoi has over 10 years of experience in higher education and information technology. Prior to joining the CampusEAI Consortium, Mr. Oberoi served as Vice President of Marketing for Saber Consulting (acquired by EDS, acquired by HP) where he was responsible for the strategy tactics and programs to create interest, demand and recognition for Saber's IT services portfolio. Prior to his role with Saber Consulting, Mr. Oberoi served as Business Development Consultant at Oracle Corporation where he was responsible for developing opportunities to extend Oracle's relationships with established North American and European clients by showing and validating the value in creating a partnership with Oracle and delivering a larger portfolio of Oracle software and services.

Mr. Oberoi holds a Bachelor of Science degree in Information Technology and a Master of Technology degree from Punjab University, and a Post Graduate Degree in Business Administration from Glasgow Caledonian University.



Michael C. DeJohn

Director of Corporate Development & General Counsel
CampusEAI Consortium

Michael DeJohn is the Director of Corporate Development & General Counsel of the CampusEAI Consortium.

As the Director of Corporate Development and General Counsel, Mr. DeJohn is responsible for drafting and reviewing all of CampusEAI's contracts, license agreements, and business development plans as well as collaborating with CampusEAI's business partners to raise capital, market services, and develop future ventures.



Upcoming iSeminar

CampusEAI Consortium
myCampus Portal Grant Briefing
iSeminar
Thursday, December 8, 2011



Mr. DeJohn has 10 years of experience in business and information technology. Before joining the Consortium, Mr. DeJohn was a Managing Partner at the law firm Toohig & DeJohn. Mr. DeJohn has represented numerous corporations and their franchises throughout the United States.

Mr. DeJohn graduated cum laude from Ohio University with a B.A. in Political Science and holds his Juris Doctorate from Cleveland Marshall College of Law.

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Call us at: +1 216.589.9626

Jacquinet Declaration

Exhibit H

Attorney Information

The address and telephone information found in this listing has been provided to the office of Attorney Services by the attorney. The directory lists an attorney's business address. An attorney's residence address is displayed **only** if the attorney has not provided a valid business address. See, **Gov. Bar R. VI, Sec. 1(G)**. "Invalid" next to the address indicates that mail sent to this address has been returned as undeliverable or that the attorney has not provided a complete mailing address. Also note that the record displays the attorney's current name on file in our records. If you believe any information listed below is incorrect, please **click here** for instructions

Current Name: **Michael Christopher DeJohn**

Current Registration: **Active** **See Definitions below**

Ohio Admission: 04/15/2004 Discipline and Sanction History: **No**

Registration Number: 0077227

Attorney Title: General Counsel
Office: CampusEAI Consortium
Employer Address: 1111 Superior Ave #310
Cleveland, OH 44114
Office Phone: 216.589.9626

Law School: Cleveland State University
How Admitted: By Exam

CLE Enforcement

Discipline or Sanction History

New Search

Previous Search List

Questions or Comments: **Office of Attorney Services**, 614.387.9320

DEFINITIONS

Active

Active attorneys may practice law in Ohio, assuming all other requirements are met.

Inactive

Inactive attorneys may not practice law in Ohio or hold themselves out as authorized to practice law in Ohio. See, **Gov. Bar R. VI, Sec. 2**.

Retired

Attorneys registered for retired status must have been at least 65 years old at the time of their retired registration. Retired attorneys may not practice law in Ohio or hold themselves out as authorized to practice law in Ohio. See, **Gov. Bar R. VI, former Sec. 3**. Retired registration status is no longer available as a registration

status, effective September 1, 2007.

Corporate

Corporate status is available to attorneys not admitted to practice law in Ohio who are employed full-time by a non-governmental Ohio employer. See, **Gov. Bar R. VI, Sec. 3.**

Certified

A certified attorney is not admitted to practice in Ohio but is temporarily certified to practice law for a legal service or public defender program. See, **Gov. Bar R. IX** or contact the **Bar Admissions Office** (614.387.9340).

Foreign Legal Consultant

A foreign legal consultant is admitted to practice in a foreign country but not in Ohio and is authorized to provide limited legal services in Ohio. See, **Gov. Bar R. XI** or contact the **Bar Admissions Office** (614.387.9340).

Ex-Corporate

Person previously registered for corporate status.

Ex-Certified

Person previously certified pursuant to **Gov. Bar R. IX.**

Ex-Foreign Legal Consultant

Person previously certified as a foreign legal consultant pursuant to **Gov. Bar R. XI.**

Not Registered

Refers to an attorney who is not registered with the office of Attorney Services in accordance with **Gov. Bar R. VI.**

Not Required

Refers to an attorney who is not required to register with the office of Attorney Services. Please contact the **office of Attorney Services** at 614.387.9320 for additional information.

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Jacquinet Declaration

Exhibit I

United States of America

United States Patent and Trademark Office



Reg. No. 3,694,718 CLEVELAND STATE UNIVERSITY (OHIO STATE UNIVERSITY)
Registered Oct. 13, 2009 2300 EUCLID AVENUE, AC 321
CLEVELAND, OH 44115

Int. Cl.: 41 FOR: LENDING LIBRARIES; PUBLICATION OF BOOKS; PUBLICATION OF ELECTRONIC BOOKS AND JOURNALS ON-LINE; EDUCATIONAL SERVICES, NAMELY, PROVIDING COURSES AT THE UNDERGRADUATE AND GRADUATE UNIVERSITY LEVEL AND DISTRIBUTING COURSE MATERIAL THEREWITH; EXTENSION, CONTINUING AND COMMUNITY EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, PUBLIC LECTURES, WORKSHOPS, SEMINARS, CONFERENCES AND EXHIBITIONS IN THE FIELDS OF ENGINEERING, LAW, BUSINESS, ARTS AND HUMANITIES, NATURAL AND PHYSICAL SCIENCES, ARCHITECTURE, JOURNALISM, EDUCATION, INTERNATIONAL AND PUBLIC AFFAIRS, PUBLIC HEALTH, SOCIAL WORK, BEHAVIORAL SCIENCES, AND MATHEMATICS AND DISTRIBUTING COURSE MATERIAL THEREWITH; EDUCATIONAL RESEARCH; ENTERTAINMENT SERVICES, NAMELY, ARRANGING AND CONDUCTING ATHLETIC EVENTS AND TOURNAMENTS, EXHIBITIONS, CONFERENCES, LIVE PERFORMANCES AND FESTIVALS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

**SERVICE MARK
PRINCIPAL REGISTER**

FIRST USE 0-0-1965; IN COMMERCE 0-0-1965.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STATE UNIVERSITY", APART FROM THE MARK AS SHOWN.



THE MARK CONSISTS OF A SHIELD DIVIDED INTO QUARTERS, WITH THREE LEAVES IN THE UPPER LEFT QUADRANT, AN INFINITY SYMBOL IN THE UPPER RIGHT QUADRANT, A QUILL, OPEN BOOK AND COG IN THE LOWER RIGHT QUADRANT, AND THE LETTER A IN THE LOWER LEFT QUADRANT, WITH THE IMAGE OF A MULTI-COLUMNED BUILDING APPEARING ABOVE THE SHIELD, ALL ENCIRCLED BY THE WORDS "CLEVELAND STATE UNIVERSITY 1964".

SEC. 2(F) AS TO "CLEVELAND STATE UNIVERSITY 1964".

SER. NO. 77-502,758, FILED 6-19-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY

David J. Kyros

Director of the United States Patent and Trademark Office

Jacquinet Declaration

Exhibit J

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 3,671,697

Registered Aug. 25, 2009

**SERVICE MARK
PRINCIPAL REGISTER**

CLEVELAND STATE UNIVERSITY

CLEVELAND STATE UNIVERSITY (OHIO STATE UNIVERSITY)
2300 EUCLID AVENUE, AC 321
CLEVELAND, OH 44115

FOR: LENDING LIBRARIES; PUBLICATION OF BOOKS; PUBLICATION OF ELECTRONIC BOOKS AND JOURNALS ON-LINE; EDUCATIONAL SERVICES, NAMELY, PROVIDING COURSES AT THE UNDERGRADUATE AND GRADUATE UNIVERSITY LEVEL AND DISTRIBUTING COURSE MATERIAL THEREWITH; EXTENSION, CONTINUING AND COMMUNITY EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, PUBLIC LECTURES, WORKSHOPS, SEMINARS, CONFERENCES AND EXHIBITIONS IN THE FIELDS OF ENGINEERING, LAW, BUSINESS, ARTS AND HUMANITIES, NATURAL AND PHYSICAL SCIENCES, ARCHITECTURE, JOURNALISM, EDUCATION, INTERNATIONAL AND PUBLIC AFFAIRS, PUBLIC HEALTH, SOCIAL WORK, BEHAVIORAL SCIENCES, AND MATHEMATICS AND DISTRIBUTING COURSE MATERIAL THEREWITH; EDUCATIONAL RESEARCH; ENTERTAINMENT SERVICES,

NAMELY, ARRANGING AND CONDUCTING ATHLETIC EVENTS AND TOURNAMENTS, EXHIBITIONS, CONFERENCES, LIVE PERFORMANCES AND FESTIVALS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 0-0-1964; IN COMMERCE 0-0-1964.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STATE UNIVERSITY", APART FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 77-502,102, FILED 6-18-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY